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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,672	11/07/2002	Kurt H. Ruppiman SR.	P-D008	9271

5073 7590 07/13/2005

BAKER BOTTS L.L.P.  
2001 ROSS AVENUE  
SUITE 600  
DALLAS, TX 75201-2980

EXAMINER
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MCDOWELL, SUZANNE E

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/065,672

Applicant(s)

RUPPMAN ET AL.

Examiner

Suzanne E. McDowell

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-21 is/are pending in the application.  
4a) Of the above claim(s) 21 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claim 21 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claim is drawn to an apparatus, while the original claims are method claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

Accordingly, claim 21 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 7-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poppe et al. (US Patent 4,260,567) in view of Cahill et al. (US Patent 6,083,585). Poppe et al. teaches a method of blow molding wherein the container is pressurized by an inert gas, such as carbon dioxide, and the resin utilized can be polyethylene terephthalate, polybutylene terephthalate, PVC, polypropylene, polyethylene, etc (column 4, lines 17-23), depressurizing and releasing the bottle (column 3, lines 36-39). Regarding claims 1 and 7, Poppe et al. does not teach that the container is formed from an extruded preform. It is notoriously well known in the art to extrude a preform which is then blown into a container. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use well known molding techniques, such as extrusion, to form the preform and further define the method taught by Poppe et al., depending upon material characteristics, desired temperatures, etc.

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Further regarding claim 1, and regarding claim 20, Poppe et al. does not teach that the resin is contacted with an oxygen-depleted atmosphere. Cahill et al. teaches a method of making resins which are utilized to extrusion blow mold containers (column 17, lines 30-32) by maintaining the resin under an inert atmosphere, such as a nitrogen blanket (column 15, lines 46-51). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the inert atmosphere taught by Cahill et al. to modify the method taught by Poppe et al., in order to form a container with the desired properties, such as a lower acetaldehyde content.

Regarding claims 2, 4, 5, 8, 9-11, 15, and 16, the claimed temperatures are result-effective variables which depend upon the desired characteristics of the finished product, the melting temperature of the chosen resin, the glass transition temperature of the chosen resin, etc. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use generally well known blow molding temperature to form and cool the container, to further define the method taught by Poppe et al. The motivation to modify Poppe et al. is that the temperatures chosen are dependent upon the resin utilized, and can be determined by routine experimentation.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

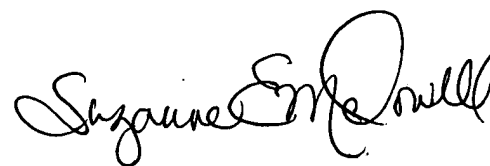
Nelson et al. (US Patent 5,648,032).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on M, W, Th 6:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEM  
July 11, 2005

  
SUZANNE E. MCDOWELL  
PRIMARY EXAMINER